



The Commonwealth of Massachusetts

Department of Telecommunications and Energy
Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston, MA 02202

July 31, 1998

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RE: Cambridge Electric Light Company/Commonwealth Electric Company,
D.T.E. 98-16

Dear Messrs. Cope-Flanagan, Lyne and Avery:

On June 18, 1998, pursuant to Cambridge Electric Light Company/Commonwealth Electric Company, D.P.U./D.T.E. 97-111 (1998), Electric Utility Restructuring, D.P.U. 96-100 (1996), and the Department's Letter Order of May 30, 1997, Cambridge Electric Light Company and Commonwealth Electric Company ("ComElectric" or "Companies") filed with the Department of Telecommunications and Energy ("Department") their Five-Year Energy Efficiency Plan ("Plan") covering the period 1998 through 2002.¹ Also on June 18, 1998, ComElectric, the Attorney General of the Commonwealth ("Attorney General"), the Commonwealth of Massachusetts Division of Energy Resources ("DOER"), the Conservation Law Foundation, Inc., The Energy Consortium, IRATE, the FAP/WAP Network, including South Middlesex Opportunity Council, the Northeast Energy Efficiency Council ("NEEC"),

¹ The Plan included demand-side management programs for residential customers, including a program for low-income customers, and for commercial and industrial customers.

and Enron Energy Services (collectively the "Settling Parties") submitted for approval by the Department a Joint Motion for Approval of the Offer of Settlement and an Offer of Settlement ("Settlement"). According to the Settling Parties, the Settlement would resolve all issues among the Settling Parties relating to the Companies' Plan. The matter was docketed as D.T.E. 98-16. Notice was duly issued. On July 15, 1998, the Attorney General intervened as of right pursuant to G.L. c. 12, § 11E. The Department granted NEEC's Petition to Intervene on July 29, 1998. The Companies responded to several information requests propounded by the Department.

The Electric Industry Restructuring Act, Chapter 164 of the Acts of 1997 ("Act"),² states that DOER has the authority to oversee and coordinate ratepayer-funded energy efficiency programs, consistent with specified goals, and requires DOER to file annual reports with the Department regarding proposed funding levels for said programs. G.L. c. 25A, § 11G. The Department is to review and approve energy efficiency expenditures after determining that the implementation of such programs was cost-effective. Id.; see also G.L. c. 25, § 19.³

In a letter submitted to the Department on February 5, 1998, DOER stated that, until it completes the public hearing and rules processes required by G.L. c. 25A, § 11G,⁴ DOER intends to fulfill its oversight role through "the consummation of settlement agreements or vigorous litigation" of the energy efficiency cases before the Department. Therefore, until DOER promulgates rules and regulations necessary to allow it to carry out its mandated

² An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protections Therein.

³ G.L. c. 25, § 19 authorizes and directs the Department to require, for all electric consumers as of March 1, 1998, a mandatory (fixed) charge per kilowatthour ("KWH") for energy efficiency activities, including demand-side management activities. The per KWH charges for the following (calendar) years are 3.3 mills for 1998, 3.1 mills for 1999, 2.85 mills for 2000, 2.7 mills for 2001, and 2.5 mills per KWH for 2002. G.L. c. 25, § 19. In addition, the Department "shall ensure that [the programs] are delivered in a cost-effective manner." Id.

⁴ G.L. c. 25A, § 11G states, among other things:

Within one year of enactment of this legislation, [DOER] shall conduct a public hearing process to investigate the role of [DOER] in the oversight and statewide coordination of energy efficiency programs. Not later than March 1, 1999, [DOER] shall promulgate rules and regulations necessary to implement the findings of this section.

oversight and coordination role, the Department will exercise its general supervisory authority under G.L. c. 164, § 76 to review the energy efficiency plans filed pursuant to G.L. c. 164, § 1A(a), D.P.U. 96-100, and the Department's Letter Order of May 30, 1997, in order to ensure consistency among companies' plans and continuity of demand-side management ("DSM") services for Massachusetts ratepayers.

In assessing the reasonableness of an offer of settlement, the Department must review the entire record as presented in a company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and public policy. Boston Gas Company, D.P.U. 96-50, Phase I at 7 (1996); Massachusetts Electric Company, D.P.U. 96-59, at 7 (1996); Western Massachusetts Electric Company, D.P.U. 96-8-CC at 6 (1996); Massachusetts Electric Company, D.P.U. 94-112, at 6 (1994).

The Department has reviewed the Settlement. Based on the record in this proceeding, the Department finds that the Plan is consistent with the Act and D.P.U. 96-100. Therefore, the Department approves the Settlement. In accordance with the terms of the Settlement, our acceptance of the Settlement does not constitute a determination or finding by the Department on the merits of any allegations, arguments or contentions made in this proceeding, nor does it set a precedent for future proceedings before the Department, whether ultimately settled or adjudicated (Settlement at ¶ XII).

However, consistent with the requirements in G.L. c. 25A, § 11G and G.L. c. 25, § 19, that the Department make a determination that energy efficiency programs are implemented cost-effectively, the Department intends to initiate, on its own motion, a proceeding to investigate the appropriate cost-effectiveness tests to be used to evaluate different types of DSM programs. The Department notes that, based on the results of the generic proceeding, the Companies may need to revise some of the provisions included in the Plan.⁵ The Department also notes that assessment of cost-effectiveness cannot be accomplished without documentation. Therefore, the Companies are reminded that all previously established reporting requirements remain in effect until the Department reviews this issue as an aspect of the generic proceeding.

Finally, the Settlement explicitly addresses the Act's requirement that a municipality or group of municipalities that establishes a load aggregation program ("municipal aggregator") may submit for Department approval an energy plan that calls for the implementation of DSM programs "consistent with any state energy goals developed pursuant to chapter 25A or chapter 164." G.L. c. 164, § 134(b). If the municipal energy plan is approved, the municipal

⁵ The Settlement at ¶ VIII recognizes and addresses this possibility by stating, "[t]he [Settling] Parties acknowledge that any determination on cost-effectiveness may result in changes to the ... Plan."

aggregator may expend monies collected by a distribution company through its energy efficiency charge in an amount not to exceed that contributed by retail customers within the boundaries of the municipal aggregator. Id. As the Settling Parties have recognized, the Department's approval of the ComElectric Plan is subject to an adjustment in accordance with G.L. c. 164, § 134(b) at such time as the Department may approve a municipal energy plan for a municipality or group of municipalities in either of the company's service territories (Settlement at ¶ X).

Sincerely,

Janet Gail Besser, Chair

James Connelly, Commissioner

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

cc: Mary L. Cottrell, Secretary
Service List
D.P.U. 95-95 Service List